

Integrated Waste Management Board
Cal/EPA Environmental Enforcement Report
2009

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INTEGRATED WASTE MANAGEMENT BOARD

I. EXECUTIVE SUMMARY

Legislation effective on January 1, 2010 eliminated the Integrated Waste Management Board (IWMB) and Board Member structure under the California Environmental Protection Agency (CalEPA) and moved all existing solid waste responsibilities and functions to the Department of Resources Recycling and Recovery (CalRecycle) under the Natural Resources Agency. This report refers to the IWMB for activities in 2009, and refers to CalRecycle for 2010 and future activities. The IWMB has a dual mission: protecting public health and safety and the environment through regulation of solid waste and solid waste facilities, and reducing solid waste disposal through diversion (recycling, composting and waste prevention). A wide variety of programs is needed to achieve these missions from: assistance and training for local partners and businesses; to analysis, policy and regulation development; to evaluating compliance with requirements and taking enforcement action, if needed. Enforcement activities include:

- oversight of permitted solid waste handling and disposal facilities;
- evaluation of Local Enforcement Agency (LEA) performance in assuring permitted solid waste facilities meet standards;
- enforcement of standards at tire facilities, and tire hauler and tire flow manifest requirements;
- enforcement when cities and counties have not implemented diversion programs to achieve their per capita disposal rate; and
- enforcement when product minimum recycled content requirements are not met by businesses.

A) Major Program Highlights

Implementation of Strategic Directives

The IWMB Strategic Directives provide methodologies for measuring success of the implementation of the Integrated Waste Management Act. The Strategic Directives cover all aspects of waste management and aim to protect and preserve the public health and safety, the State's resources, and the environment.

Several Strategic Directives, specifically numbers 3, 4 and 8 ([November 2009, Board Agenda Item 14](#)), place a significant emphasis on compliance and enforcement. In 2009 the Strategic Directives, and the Local Enforcement Agency (LEA) Compliance Targeting strategy, led to increased enforcement, a decrease in the number of repeat violations, and an increase in solid waste facility inspections. More information is included in each enforcement program.

Tire Enforcement

The IWMB conducted systematic reviews of haulers as part of its Zero Tolerance Compliance Strategy to assess compliance with tire hauler and tire manifest requirements. The Zero Tolerance Compliance Strategy, used in conjunction with the IWMB-approved streamlined penalty process, has resulted in more prompt, expeditious and cost effective enforcement action and improved compliance with waste tire laws and regulations. The streamlined penalty process also saves time and expense for the regulated community as opposed to resolving complaints through the Administrative Hearing process. More than 90 percent of haulers accepted the streamlined penalties. The hauler community as a whole has been very supportive of the streamlined penalty process since it helps to ensure a level playing field and minimizes the competition from unregulated haulers who are not complying with waste tire laws.

Solid Waste Facility and Local Enforcement Agency (LEA) Enforcement

One measure of the level of compliance with the state minimum standards for waste management facilities is the number of facilities on the [Inventory of Solid Waste Facilities Which Violate State Minimum Standards](#) (Inventory). This list is composed of facilities that have a repeated number of violations and require close oversight by LEAs to bring them into compliance. During 2009, six facilities were on the Inventory, the same number as in 2008.

LEA performance is evaluated every three years based on statutory and regulatory criteria which include: inspections consistent with the law, preparation and approval of permits and closure plans consistent with the law, appropriate enforcement, any actions inconsistent with the law, and staffing and budgets consistent with the designation/certification of the LEA. Due to lack of IWMB staff resources, the fourth evaluation cycle was completed in early 2010 rather than June 2009. Thirty-five of the fifty-five LEAs evaluated were found to be fulfilling their duties, nine were found to be fulfilling most of their duties and eleven were placed on corrective action plans to improve performance. Comparing the statewide results of the fourth LEA evaluation cycle (2006-2010) to the third LEA evaluation cycle (2003-2006) shows a significant improvement in LEA performance. The results show a 20 percent increase in the number of LEAs that have fulfilled their duties and a 50 percent decrease in the number of LEAs that were placed on corrective action plans to improve performance. The eleven LEAs placed on work plans to improve their performance, have all made progress in implementing their work plans and eight of them have completely complied with their corrective action plan.

Local Government Diversion Enforcement

Changes in the law, effective January 1, 2009, shifted the focus from implementing diversion programs to achieve estimated diversion to implementing diversion programs to meet a per capita disposal rate. Instead of estimating a statewide diversion rate, the IWMB reported pounds disposed per resident per day. The 2008 statewide per resident disposal rate to achieve the diversion requirements is the most recent available. The 2008 per resident disposal is 5.1 pounds per resident per day, and is down 1.2 pounds from the peak of 6.3 pounds per resident per day in 2005. The 2008 estimated diversion rate using the new calculation method is 59 percent.

This shift to per resident disposal is a fundamental change that may well require renewed dedication and efforts from CalRecycle, local governments, businesses and residents to make meaningful reductions in disposal, and thus the corresponding benefits of conserving natural resources, reducing environmental impacts of disposal and reducing climate change emissions. While the economic downturn has likely been the major driver of the recent drop in disposal, continued implementation of diversion programs has undoubtedly also led to decreased disposal. When the economy rebounds waste generation will increase as well, so if these decreases in disposal are to last, efforts to divert solid waste cannot wane.

In 2009, the IWMB did not conduct any local government diversion review cycles. Changes in the law will require CalRecycle to conduct either a two-year or four-year review cycle to evaluate each local government's progress in implementing diversion programs to achieve its own per capita disposal target. The next two-year review cycle will be conducted in 2010. The next four-year review cycle will be conducted in 2012.

In 2009, two local governments were placed on compliance orders. One local government was penalized for failure to implement its existing compliance order. Eleven local governments already under compliance orders were monitored; five met the terms of their compliance orders and were taken off compliance during 2009.

Rigid Plastic Packaging Container (RPPC) Minimum Recycled Content Enforcement

No enforcement actions were taken during 2009. This was due to a temporary suspension of the certification cycle while the regulations were being revised. It is anticipated that the formal rulemaking process to revise the regulations will begin during late summer 2010.

Illegal Dumping Enforcement

Illegal dumping poses risks to the general public and the environment, degrades the quality of life in affected communities, and is costly to cleanup. Illegal dumping is an intentional act that is typically done for economic gain. Clean up of illegal dump sites costs local governments and CalTrans a minimum of \$89 million per year. Currently, no state agency is tasked with coordinating illegal dumping.

IWMB continues to move aggressively under its Solid Waste Disposal and Codisposal Site Cleanup Program to quickly cleanup large illegal disposal sites that pose a significant threat to the surrounding communities where responsible parties are unable or unwilling to perform the necessary remediation. Cleanups have occurred throughout California. IWMB is working on a bi-national, multi-media effort in partnership with the California Department of Parks and Recreation to fund and install a trash boom system to improve the removal of trash, tires, and sediment during storm events and prevent impacts to the Tijuana River Estuary.

Resource Limitations

During 2009, changes in compliance and enforcement practices continued as a result of the mid-2007 major reorganization that consolidated a variety of compliance and enforcement activities within the Waste Compliance and Mitigation Program's Compliance Evaluation and Enforcement Division (CEED). The reorganization consolidated compliance elements required by laws governing solid waste and tire facility operations, waste tire haulers, local government and state agency diversion from waste disposal, and minimum recycled content requirements for plastic and paper products. Furloughs, holding staff vacancies to meet salary savings targets, Governor's Office special assignments and staff retiring due to the 15 percent pay cut reduced staffing levels by about 30 percent during 2009.

B) What the Reported Data Tells UsTire Enforcement

The Strategic Directives set a goal of compliance at all permitted active waste tire facilities. Over 93 percent of the waste tire haulers are in compliance and 95 percent of waste tire facilities are in compliance, small improvements over 2008. Fourteen hundred and six (1406) tire enforcement actions were taken by local tire enforcement grantees and IWMB in 2009. This is a 23 percent increase over the 1141 enforcement actions taken in 2008.

In 2009, the IWMB made permanent the tire hauler streamlined penalty process due to success of the six-month pilot program. Over the last few years, the number of tire hauler and manifest penalty cases has increased dramatically with the zero tolerance compliance strategy and the streamlined penalty process. In 2009, there were 71 penalty cases (59 streamlined penalty cases and 12 administrative complaints). The 2009 figures reflect better compliance by the regulated community in response to enforcement actions in 2008. They also reflect a reduction in the backlog of enforcement cases due to implementing the streamlined penalty process.

Solid Waste Facility and LEA Enforcement

Solid waste facility integrated waste management enforcement programs are primarily carried out through 59 LEAs. LEAs inspect solid waste facilities to determine compliance with state minimum standards and permit conditions. There is a 5 percent significant violation noncompliance rate at solid waste facilities and solid waste operations. The Strategic Directives require compliance at all active solid waste facilities and IWMB is looking at methods outlined in the Compliance Targeting Strategy to achieve this goal. The IWMB is developing early triggers for areas of noncompliance, and providing assistance and training in those areas to achieve compliance. The Compliance Targeting Strategy lays out processes for moving promptly to enforcement if compliance is not achieved. The number of solid waste facilities with significant violations that were listed in the Inventory of Solid Waste Facilities Which Violate State Minimum Standards remained the same at six facilities listed on the Inventory.

An important component of achieving compliance at all permitted active solid waste facilities is working through LEAs and verifying that LEAs are performing their duties in accordance with the law. In 2010 IWMB completed the fourth evaluation cycle for the years 2006--2010. Thirty-five of the fifty-five evaluated LEAs were found to be fulfilling their responsibilities during the fourth LEA evaluation cycle. The remaining twenty LEAs were found to not to be fulfilling some of their responsibilities during this time frame. LEA responsibilities include requiring prompt action to remedy violations of state minimum standards at facilities, as well as longer term issues such as requiring each facility to have a closure plan and post-closure financial assurance. The number of LEAs required to be on corrective action plans to correct issues was reduced from twenty-one to eleven in the fourth cycle. Eight of the LEAs have completely complied with their corrective action plan and the remaining three are in making progress in implementing their plans to correct the issues found during the evaluation.

Local Government Diversion Enforcement

Changes in the law, effective January 1, 2009, shifted the focus from achieving estimated diversion to maintaining or reducing per capita disposal. The 2008 statewide per resident disposal rate to achieve the diversion requirements is the most recent available. In 2008, 37.9 million Californians disposed of 35.5 million tons of solid waste. This is a significant reduction in statewide disposal. Overall disposal has decreased by 7 million tons (more than 16 percent) from its peak of 42.5 million tons in 2005. The 2008 per resident disposal is 5.1 pounds per resident per day which is the lowest since disposal reporting began in 1995, and is down 1.2 pounds from the peak of 6.3 pounds per resident per day in 2005. The 2008 estimated diversion rate using the new calculation method is 59 percent.

Every two or four years the IWMB reviews each local government's progress in implementing its planned waste diversion programs; this is called the review cycle. The next two-year review cycle, for local governments that were found to make a good faith effort to implement diversion programs to achieve the diversion requirements in 2006, will be conducted in 2010. The next four-year review cycle, for local governments that achieved the 50 percent diversion requirement and implemented diversion programs, will be conducted in 2012.

Eleven (2.7 percent) of local governments were on compliance orders during 2009. Two (0.5 percent) local governments were placed on compliance during 2009. During the course of the year, five (1.2 percent) local governments, met the terms of their compliance orders and were removed from compliance status during 2009. The IWMB imposed penalties on one (0.25 percent) local government for failure to meet the requirements of their compliance order.

Rigid Plastic Packaging Container Minimum Recycled Content Enforcement

During 2009, no enforcement actions were taken. This was due to a temporary suspension of the certification cycle while the regulations were being revised. It is anticipated that the formal rulemaking process to revise the regulations will begin during late summer 2010. One additional company has appealed the IWMB's finding, and the case is expected to be resolved in 2010.

C) How The Program Will Use The Information

The data will be used, as described under each program component above, to analyze progress in achieving compliance and effectiveness of enforcement actions, and determine the need for future changes to the program components.

I. IWMB ENFORCEMENT PROGRAM

A) IWMB Enforcement Program Overview

Mission Statement

The IWMB's Waste Compliance and Mitigation (WCM) Program ensures that:

- All solid waste and tire facilities, and all tire haulers are permitted or registered as required.
- All waste management activities within the IWMB's purview as defined by law are assessed, enforced and penalized as appropriate.
- The State's diversion goals are met and State agency and local programs achieve State mandated goals.
- Mandated producer responsibility programs including rigid plastic packaging containers (RPPCs), plastic trash bags and newsprint are in compliance.
- All hazards created by the illegal or inappropriate disposal of solid waste are mitigated.
- Staff and local partners have the training, technical support, and financial assistance necessary.
- All local enforcement agencies are properly certified, designated and evaluated as appropriate.

The Compliance Evaluation and Enforcement Division (CEED) within the WCM Program is responsible for all compliance and enforcement activities related to solid waste and tire facilities, and illegal tire disposal; compliance activities related to the IWMB's minimum content programs (newsprint, trash bags and rigid plastic containers); and compliance activities related to local government and state agency waste management planning and diversion requirements.

Organizational Structure

See Figure 1 on the next page for an IWMB organization chart.

Compliance Assistance Program Highlights

The law requires IWMB's programs to have a strong assistance and training component to help the regulated community comply with the law. The regulated community includes millions of businesses, thousands of schools and hundreds of state agencies and local governments. When compliance is not achieved, the IWMB emphasis switches to enforcement. There is a wide variety of compliance assistance activities that are carried out by approximately 220 staff, including development and presentation of training materials, development of web assistance materials and work with many individual businesses, state agencies and local governments. Customer assistance program highlights are below.

The IWMB web site has expanded greatly over the years and provides assistance to users ranging from media, schools and local governments to technical experts, 24/7, on all topics under the IWMB's purview. Figure 2 shows the number of IWMB web pages accessed by outside parties. There has been a dramatic increase in web page use since 1997 and an eight percent decrease in web page use between 2008 and 2009.

The IWMB also funded over \$48,000,000 in grants and loans in fiscal year 2008/2009 for a wide variety of assistance and enforcement activities. The information is currently available on a fiscal year basis rather than a calendar year basis as shown in Figure 3. Grants provide funds to local governments, landowners, businesses and non-profits for activities such as LEA activities, farm and ranch clean up, solid waste disposal and codisposal site cleanup, household hazardous waste and used oil programs, tire site cleanup, tire amnesty days, local tire enforcement activities, tire product commercialization, and rubberized asphalt concrete projects. The Recycling Market Development Zone Loan Program provides direct loans to businesses and nonprofits that are located in a Recycling Market Development Zone. The purpose of these loans is to promote market development for waste materials.

Training and workshops are also an important component of IWMB compliance assistance. During 2009 over 100 trainings, workshops, symposia, conferences, roundtables and information exchanges were held with local governments, state and federal agencies, businesses and nonprofits to inform them of requirements and opportunities, solve problems, improve program effectiveness and develop sound policy recommendations.



Figure 1. IWMB Organization Chart

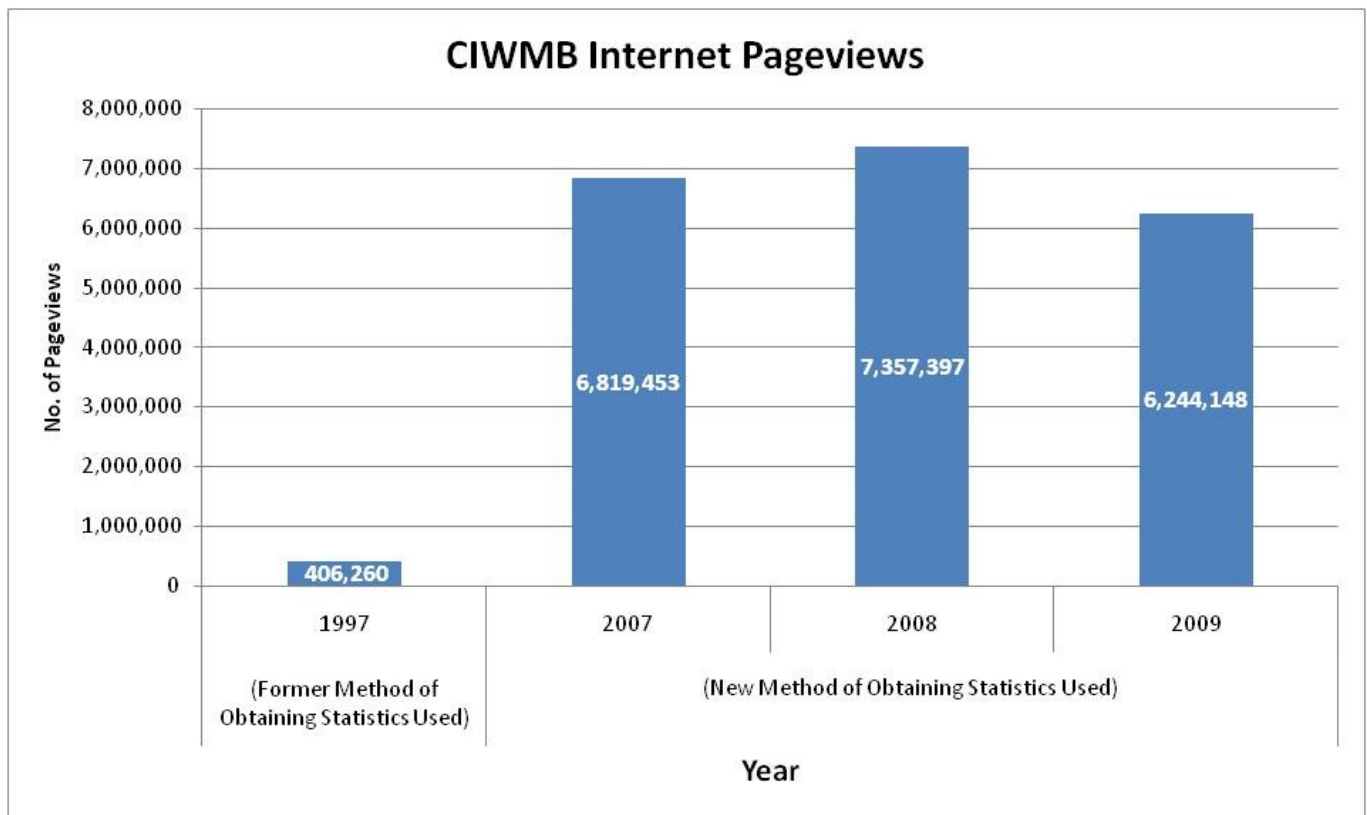


Figure 2. IWMB Internet Site External Pageviews Over Time

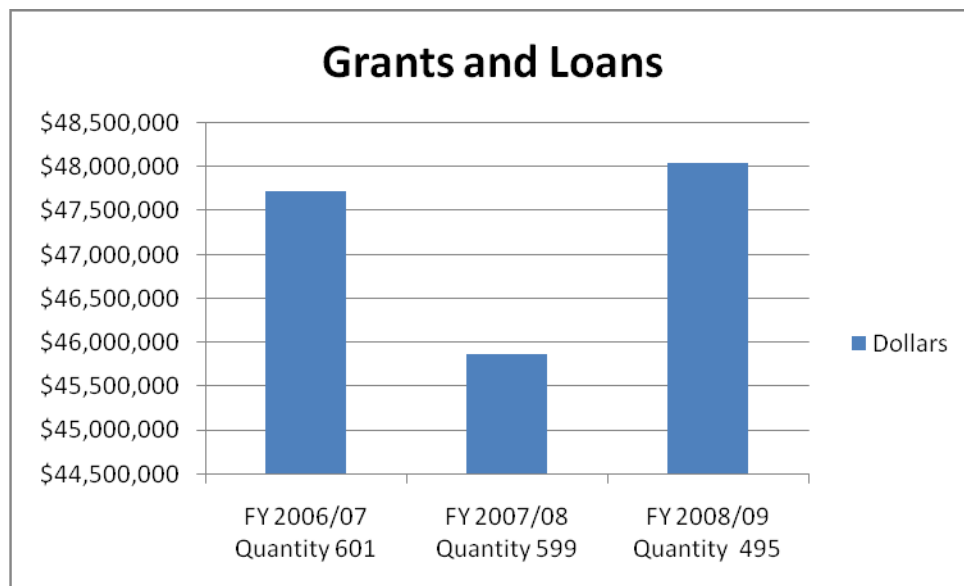


Figure 3. IWMB Grants and Loans for Fiscal Years 2006/07, 2007/08 and 2008/09

Scope of IWMB Enforcement Program

The IWMB has a variety of enforcement program components established under many laws. One of the key differences among the laws is the differing levels of enforcement authority, which requires different enforcement activities.

The IWMB has direct authority for enforcing requirements for:

- Tire haulers and handlers, processors and disposal facilities; recycled content in rigid plastic packaging containers (RPPC), plastic trash bags and newsprint.

The IWMB has oversight authority over:

- Solid waste facility Local Enforcement Agencies. The IWMB has the ability to take direct enforcement authority if solid waste facility LEAs do not choose to, or are not adequately performing enforcement duties at solid waste handling, processing and disposal facilities.
- Local governments (cities, counties and IWMB - approved regional agencies). The IWMB ensures that they are implementing waste diversion activities to achieve 50 percent diversion from disposal. The IWMB places noncompliant local governments on compliance orders and may impose penalties for failure to meet compliance order requirements.

Federal laws only govern solid waste facility enforcement; a more detailed description is included in the solid waste facility enforcement section.

The 2009 report focuses on describing the tire, municipal solid waste, local government diversion and RPPC compliance and enforcement programs. Information on newsprint, plastic trash bag, plastic carryout bag and state agency programs is not included.

There are 50 staff, plus a number of students in the Compliance Evaluation and Enforcement Division that implement the IWMB enforcement programs. At any given time, there is recruitment for several vacant positions. Most staff assigned to this work are scientists. They perform inspections, field work, and prepare analyses. The IWMB legal office has four attorneys and a legal support staff working on IWMB enforcement programs. Furloughs, holding staff vacancies to meet salary savings targets, Governor's Office special assignments and staff retiring due to the 15 percent pay cut, reduced staffing levels by about 30 percent during 2009.

The IWMB relies heavily on working with local governments to enforce tire and solid waste facilities requirements. There are 59 solid waste LEAs that implement municipal solid waste requirements at permitted solid waste facilities. Local tire grantees perform tire related inspections and assist with tire enforcement throughout the state. There were 41 local tire grantees for the first half of 2009, and 38 for the last half of 2009. Our local government partners also faced budget cuts and/or furloughs and had reduced staffing levels in 2009.

1) Tire Enforcement Program Component

Tire Enforcement Component Description

In 1990, the California Legislature enacted comprehensive requirements for the storage and disposal of waste tires. The IWMB was charged with responsibility for permitting of tire facilities, and tire pile stabilization and remediation where public health and safety and the environment may be at risk. The tire law gives the IWMB direct authority to enforce tire requirements.

The law required the IWMB to develop a "California Uniform Waste and Used Tire Manifest" (Public Resources Code Section (PRC) 42961.5). IWMB uses the information generated by the waste tire manifest system to ensure that all waste tires generated and transported within California have been accounted for and delivered to permitted or authorized end use facilities. IWMB identifies discrepancies and gaps in the manifest system data and actively enforces the requirements. The maximum civil penalties for violations of the waste tire hauling and manifesting requirements are \$25,000 per violation per day, and the maximum administrative penalties are \$5,000 per violation per day (PRC Section 42962).

Operating a waste tire storage facility without a waste tire facility permit is a misdemeanor punishable with a fine up to \$10,000 per day of the violation and/or up to one-year imprisonment in county jail (PRC Sections 42824 and 42834).

In 2009, the regulated community included approximately:

- 27,849 tire related businesses
- 1,221 waste tire haulers
- 23 minor waste tire facilities, and
- 5 major waste tire facilities.

Expanding Tire Enforcement through Local Governments

Efforts have been made to expand the statewide tire enforcement infrastructure through IWMB grants to local government tire enforcement entities. The IWMB may "consider designating a city or county, or city and county as the enforcement authority of regulations relating to the storage of waste and used tires" PRC section 42889(b)(4). This section also states that if the IWMB designates a local entity for this purpose, it must provide sufficient, stable, and noncompetitive funding to that entity, based on available resources. The IWMB and local tire enforcement grantees are working cooperatively with local district attorneys to hold those individuals who break California's waste tire laws accountable for their action either through fines or with criminal penalties.

Studies and Tools to Enhance Tire Enforcement

Enforcement is keeping up with technology in California as the IWMB is beginning to use sophisticated techniques such as satellite technology and motion-activated cameras to identify waste tire piles and to catch people illegally disposing of waste tires. The California Highway Patrol (CHP) is working in partnership with the IWMB to stop illegal hauling and stockpiling of waste and used tires. A portion of these combined efforts focused on the border region between California and Mexico.

The IWMB entered into its third contract with the Air Resources Board (ARB) to authorize the ARB to purchase, construct, maintain and deploy surveillance equipment to be used for surveillance at various sites throughout the state. Through the contract, the ARB has purchased and will set up high-tech, motion-activated video surveillance equipment to monitor activities that violate waste tire laws at locations specified by the IWMB.

San Francisco State University evaluated the use of satellite imagery in identifying waste tire piles. Click on the following link (on the CalRecycle web site) to see the [tire remote imaging final report](#). San Francisco State University's goal was to develop a tire identification methodology using satellite imagery to a scale practical for regular use by the IWMB. Study sites in Marin County, Sonoma County, and along the California/Mexico border were analyzed via satellite imagery through visual analysis and the use of the TIRE model, an algorithm previously developed during an IWMB-initiated pilot project. A total of 264 sites were targeted for inspection: excluding 22 previously known sites and 17 sites that were inaccessible by inspectors, 82 percent of identified sites were correctly identified by the analyst, 64 percent of which

contained tires. Improvements to the methodology developed during the project. The results were good, but given budget constraints and the need for highly trained personnel to operate the system, the IWMB directed staff to consider future satellite imaging work when the technology had evolved.

As part of the efforts to reduce impacts of waste tires in the California/Mexico border region, the IWMB contracted with San Diego State University to determine the flow of tires exported from California to Mexico, and possible actions to regulate the flow and reduce environmental impacts of the remaining waste tire piles. Click on either of the following links (on the CalRecycle website) to see the tire flow report in [English](#) or [Spanish](#).

The cross-border flow of used tires is a response to basic economic, social, and political factors. The used tire trade between California and Baja California is an important economic activity for both states. In 2006, about 637,500 tires were exported to Baja California through formal trade mechanisms and approximately 145,000 through informal tire flow (80,000 tires on cars and trucks exported to Mexico and 65,000 in petty contraband). There is no evidence of systematic and large movements of unregistered tires through U.S. and Mexico Customs at the commercial ports of entry.

Disposal of waste tires, in large and small tire piles, has been an ongoing problem for Mexico's border communities, caused in large measure by an inadequate waste tire disposal infrastructure, but exacerbated by the flow of used tires across the border which become waste tires after their normal use on passenger vehicles and trucks. Tire life is shortened by driving conditions in Baja California, with unpaved streets and roads, deteriorated surfaces, road hazards, and so forth. The result is that on a per-capita basis, waste tires accumulate at a faster rate than in California. Each year, Baja California is faced with disposal of about 1.5 million waste tires. About one-third of these are diverted as Tire-Derived Fuel to cement kilns; a similar number is used for civil engineering projects and informal construction projects by homeowners.

Mexico has a set of emerging laws, regulations, and practices that constitutes waste tire management programs. Mexico's federal environmental agency—the Secretariat of Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales—SEMARNAT)—has provided federal leadership and support. Cross-border collaboration, through Border 2012 and the Border Governors Conference, has been important for the cleanup of legacy piles and sharing of information.

Binational solutions and the synergy from coordinated actions by Baja California and California are needed to enhance cross-border cooperation on tire related activities. Options that California might pursue include: Develop more information on the flow of used tires into Baja California through the tracking system and work with the California Highway Patrol and U.S. Customs and Border Protection and share it with Baja California authorities; provide technical support and information exchanges for development of technical standards for use of tire derived products, a tire disposal site, and tire pile management. Options that Baja California might pursue include: Continue to develop the monofill in Mexicali for waste tires; coordinate with California and the border region private sector on market development for tire-derived products; share information on tire flow with California officials; and expand waste tire disposal regulations and strengthen enforcement of the regulations to include all waste tire generators.

Tire Enforcement Goals

The Strategic Directives set a goal of compliance at all permitted active waste tire facilities. The purpose of the waste tire enforcement grant program is to enhance the statewide waste tire enforcement infrastructure in California by increasing local waste tire enforcement activities. CalRecycle is pursuing more vigorous enforcement to achieve compliance with waste tire manifest requirements, based upon a zero tolerance compliance strategy for manifesting and hauler violations adopted in early 2007 as described in the Major

Program Highlights. Additionally, IWMB approved a streamlined penalty process for tire hauler and manifest violations to quickly resolve relatively small and noncontroversial cases.

Tire Enforcement Component Metrics

Tire Enforcement Component Data Characteristics

Tire enforcement data is collected from tire haulers submitting manifests that document tire flow in California and monthly inspections of each permitted tire facility.

Tire Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Tire Enforcement Component Outputs

Forty-one local tire enforcement grantees covered 79 percent of the state's tire sites and related businesses during the first half of 2009. Thirty-eight local tire enforcement grantees covered approximately 74 percent of the state's tire sites and related businesses during the last half of 2009. The IWMB covered the remainder of the tire sites and related businesses.

The number of inspections at tire facilities has increased dramatically over the last 5 years. As the number of tire grantees has increased, more tire facilities are inspected more frequently. In addition, in the last few years in particular, IWMB staff have established increased inspections and Notice of Violation follow-up as an area of emphasis for the local government grantees. Figure 4 shows tire facility inspections.

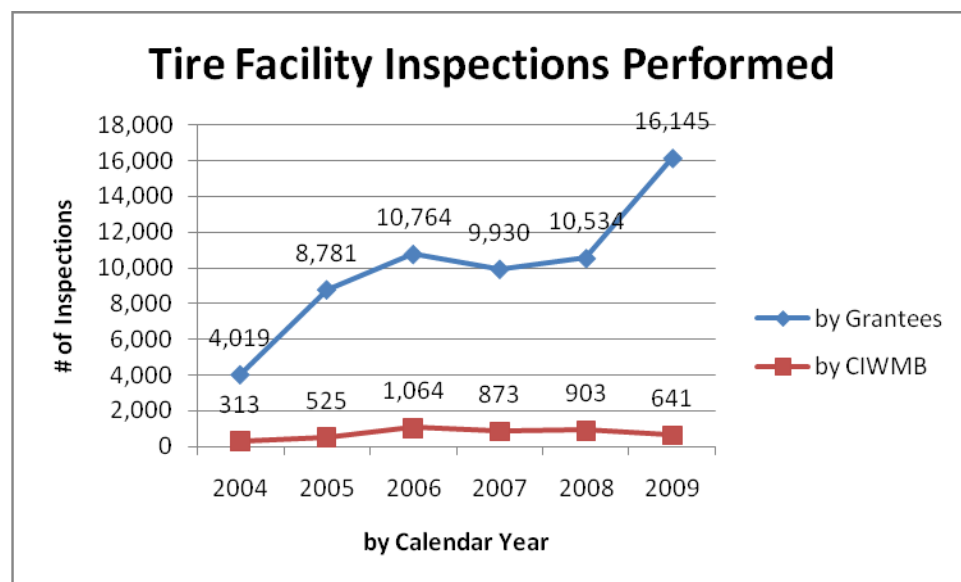


Figure 4. Tire Facility Inspections, 2004 to 2009

If an inspector observes that a tire business is out of compliance with a law or regulation, the inspector documents a Notice of Violation and identifies a date by which the business must become compliant. If the business does not become compliant after 2 re-inspections, enforcement action is initiated against the tire business. The IWMB defines these enforcement actions as significant violations.

One thousand four hundred and six (1,406) tire enforcement actions were taken by local tire enforcement grantees and IWMB in 2009. This is a 23 percent increase over the 1,141 tire enforcement actions taken in 2008. The types of tire enforcement actions for tire businesses (which include tire sales and waste tire facilities) and tire haulers and the tire hauler manifest system include:

- Cleanup and Abatement Orders
- Notices of Violation
- Rejected Applications
- Administrative Actions
- Administrative Complaints
- Cease and Desist Orders
- Letters of Violation

Figure 5 shows notices of violations and significant enforcement actions for only the 28 permitted waste tire facilities. A permitted facility is a tire business that has a permit for 500 or more tires on site. The IWMB takes enforcement action when significant violations occur. The number of enforcement actions has dropped to two after the increase in emphasis on enforcement.

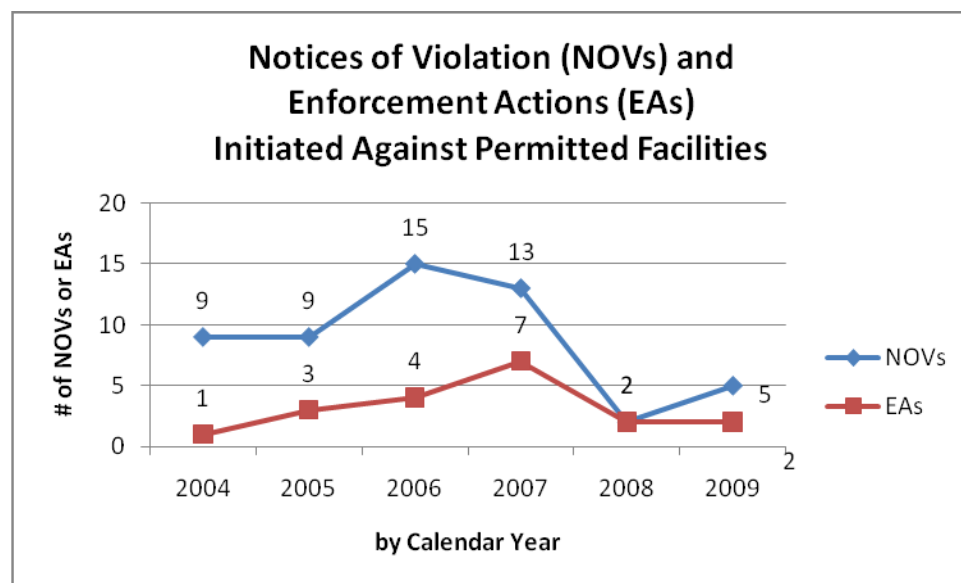


Figure 5. Tire Facility Notices of Violation and Enforcement Actions, 2004-2009

When tire haulers fail to correct violations, IWMB will issue administrative complaints, as well as, the recently implemented “Streamlined Penalties” to tire haulers for violations of requirements related to hauler registration and manifesting of tire movement throughout California. Administrative Complaints for these types of violations from 2004 to 2009 are shown in Figure 4.

Based on success of the “Streamlined Penalty Process” in pursuing hauler manifest and registration violations in 2008, the Board made the process permanent in 2009 if the following conditions are met:

- The enforcement action is less than \$5,000 in potential Administrative Complaint fines;
- The site does not involve more than 2,000 waste tires;
- There is no controversy or special circumstances concerning the site.

The IWMB also approved revising regulations to expand the program to include select facility violations as well as hauler manifest and registration violations. However, the current regulations require a violation of a Cleanup and Abatement Order before pursuing a penalty. To allow use of streamlined penalties as a deterrent at tire facilities, CalRecycle will be pursuing regulatory changes in 2010.

The streamlined penalty process allows for cost effective prosecution of these violations without having to utilize the Administrative Hearing process. Under this process, and using CalRecycle pre-approved criteria, staff can propose a settlement to a violator in lieu of prosecution through the administrative complaint process. The numbers of prosecutions using this streamlined process are shown in Figures 6 and 7. The 94 tire hauler and manifest streamlined penalties plus the 18 tire hauler and manifest administrative complaints resulted in a total of 112 enforcement cases that occurred in 2008: an 8 fold increase from the 14 tire hauler and manifest administrative complaints in 2007. In 2009, these numbers decreased to 59 streamlined penalty cases and 12 administrative complaints. The decrease is partly attributable to improved compliance by the regulated community in response to enforcement actions taken in 2008.

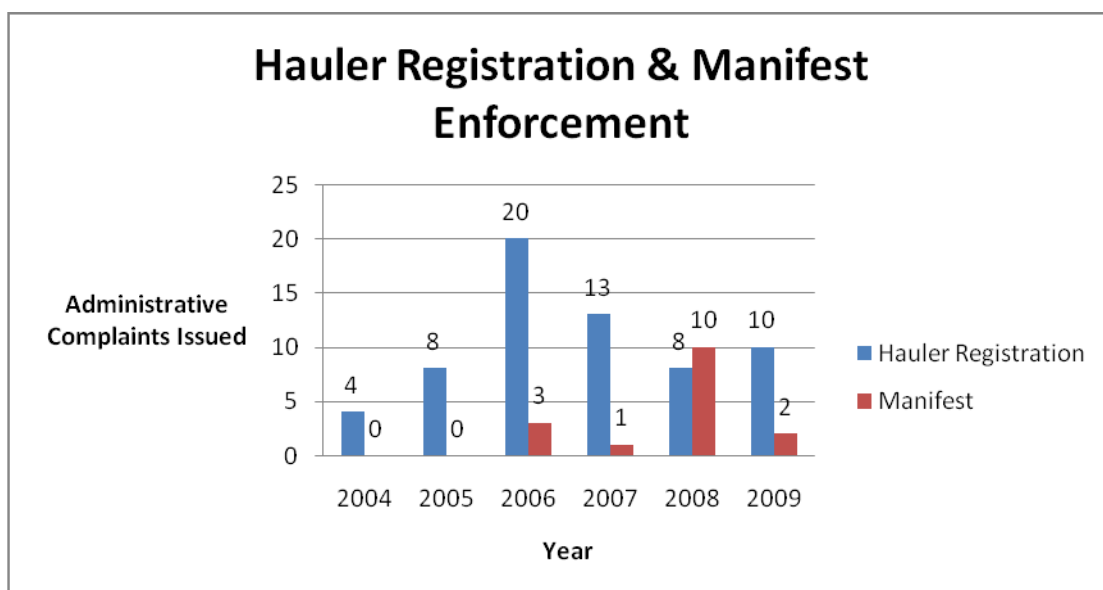


Figure 6. Tire Hauler Registration and Manifest Enforcement, Administrative Complaint Actions, 2004-2009

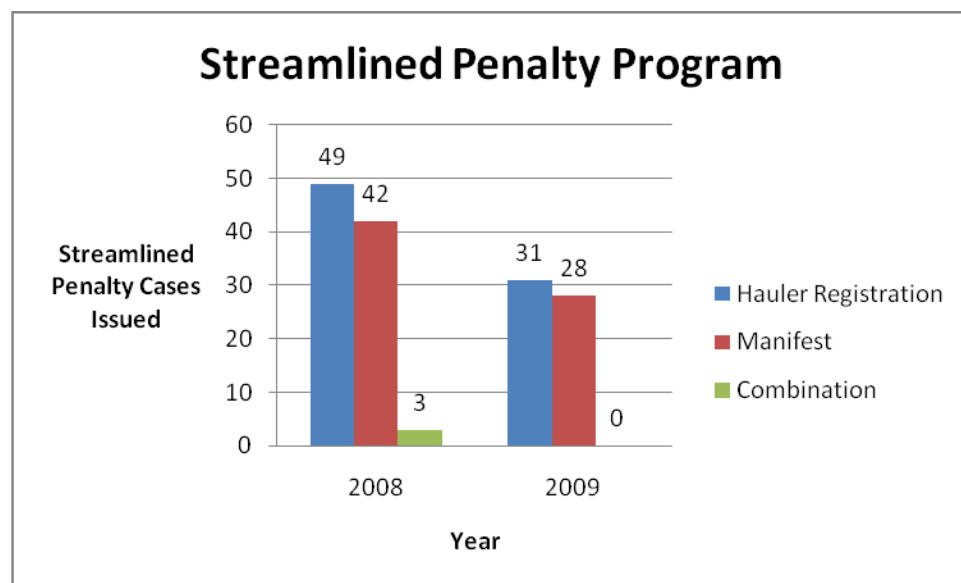


Figure 7. Tire Hauler Registration and Manifest Enforcement, Streamlined Enforcement Actions, 2008-2009

Tire Enforcement Component Outcomes

The Strategic Directives set a goal of 100 percent compliance related to compliance with applicable State standards and permit conditions at active waste tire facilities. The CIWMB takes enforcement action when significant violations occur. For tire facility enforcement, there is a significant violation when the IWMB files an administrative complaint. The 2009 significant violation non-compliance rate for active waste tire facilities was unchanged from 2008 at 7 percent.

Tire Enforcement Limitations

The IWMB has reviewed the tire enforcement program to identify opportunities for additional progress in increasing compliance and enforcement. The zero tolerance strategy for the tire hauler program increased the enforcement workload significantly since 2008. However, the implementation of the streamlined penalty process allowed staff to efficiently respond to this increased workload. By instituting the streamlined penalty process staff have been able to achieve compliance at the program level instead of referring these cases to the Legal Office, thus allowing legal staff time for more substantial tire enforcement cases and saving hundreds of thousands of dollars in “avoided” staff and legal costs if compliance had to be sought using the Administrative Hearing process.

2) Solid Waste Facility and Local Enforcement Agency (LEA) Enforcement Component

Solid Waste Facility and LEA Enforcement Component Description

Jurisdiction over the disposal of solid waste in California extends over several state and local agencies. Four state agencies play a regulatory role with respect to solid waste: 1) the IWMB; 2) the State Water Resources Control Board (State Water Board); 3) the Air Resources Board (ARB); and 4) the Department of Toxic Substances Control (DTSC).

All of these agencies fall under the umbrella of the California Environmental Protection Agency (Cal/EPA). However, as of January 1, 2010, CalRecycle, the successor agency to the IWMB, was moved to the Natural Resources Agency. IWMB, State Water Board, ARB and DTSC share concurrent authority over some aspects of solid waste facilities. The statutes and regulations for solid waste management and disposal set forth a clear division of authority between these state agencies. The California Legislature has designated

the IWMB as the lead agency for the federal Resource Conservation and Recovery Act (RCRA) Subtitle D, MSWLF (municipal solid waste landfill) permit program (PRC Section 40508).

The State Water Board's authority is established for protection of water quality, the ARB's for protection of air quality, and the DTSC's for protection from hazardous waste. The IWMB's authority is established for protection of public health and safety and the environment, which encompasses the responsibility for all other aspects of solid waste disposal not within the purview of the other entities. Under its broad authority for protection of public health and safety, the IWMB may take appropriate enforcement action, and implement the solid waste regulations of other state agencies if those agencies fail to act.

In 1993, the US Environmental Protection Agency (US EPA) approved the State of California's municipal solid waste landfill permit program pursuant to Subtitle D of the federal RCRA.

As the lead state solid waste agency, the IWMB is responsible for coordination and communication on all aspects of solid waste with US EPA, including the RCRA Subtitle D Program. The primary point of contact for IWMB and California implementing agencies is the Waste Compliance and Mitigation Program Director. IWMB regularly meets with state implementing agencies to discuss and resolve issues on all aspects of solid waste management, including the RCRA Subtitle D Program.

IWMB also coordinates notification to US EPA of any potential significant statutory or regulatory changes to the State's Subtitle D RCRA Program. Summary of non-significant changes to the State's Subtitle D Program are provided to US EPA on an annual basis. IWMB notifies US EPA of significant changes as soon as practicable, or within a timeframe agreed to by the IWMB and EPA. IWMB also collaborates with US EPA on appropriate initiatives and partnerships involving the RCRA Subtitle D Program.

Solid waste facility integrated waste management enforcement programs are primarily carried out through LEAs and the IWMB acting as the enforcement agency (EA). LEAs are designated by the governing body of a county or city and upon certification by the IWMB are empowered to implement delegated IWMB programs and locally designated activities. LEA's are responsible for assuring facilities operate in accordance with the IWMB's State Minimum Standards and approved permit conditions.

Fifty nine LEAs cover all of the state except for the six local governments where the IWMB acts as the enforcement agency. The IWMB is the EA for the: City of Berkeley; City of Stockton; City of Paso Robles; County of Santa Cruz; County of San Luis Obispo; and County of Stanislaus.

The IWMB's regulation of solid waste facilities includes:

- Certifying and evaluating LEA programs.
- Reviewing permitting and closure/postclosure documents.
- Providing inspection and oversight of local programs to ensure that State programs are effectively implemented.
- Enforcing State standards and permit conditions in addition to or in lieu of the LEA.
- Administering a remediation program for orphaned, illegal, and abandoned sites.
- Taking appropriate enforcement action if the LEA fails to take appropriate enforcement.
- Maintaining and improving the State's standards and regulations that govern the program.

There were 538 permitted, active solid waste management facilities in 2009. These include:

- 290 waste transfer and processing facilities
- 103 composting facilities
- 142 disposal facilities
- 3 waste-to-energy (transformation) facilities.

The following are additional details in specific program areas:

Active and Closed Solid Waste Facilities: Each jurisdiction's LEA or EA routinely inspects active and closed landfills, transfer stations, compost operations and facilities, construction and demolition operations and facilities, and other operations and facilities to ensure compliance with applicable State minimum standards and permit conditions. For operations or facilities that are not in compliance with State minimum standards or the conditions contained within their permit, the LEA or EA have the authority to issue Corrective Action Orders, Cease and Desist Orders, and civil penalties. The LEA and EA also have the authority to issue stipulated agreements and emergency waivers to facilities or operations located in an area with a declared emergency. Additionally, facilities found in chronic violation of State minimum standards are published on the IWMB's [Inventory of Solid Waste Facilities That Violate State Minimum Standards](#). Facilities on the Inventory receive enhanced compliance assistance and may be subject to civil penalties.

Closed, Illegal, and Abandoned Disposal Sites: The IWMB's Closed, Illegal, and Abandoned (CIA) Disposal Sites program assists local enforcement agencies in investigating and enforcing State minimum standards at CIA sites in California. Enforcement is an essential tool in the investigation and analysis of CIA disposal sites. Enforcement can include acquiring site access, abatement, notifications, stipulated agreements, and compliance with Title 14, California Code of Regulations (14 CCR).

The IWMB May Act as Enforcement Agency: When an LEA is not designated and certified, the local government requests the IWMB be the EA, or if the IWMB finds that a LEA is not fulfilling its duties and responsibilities, then the IWMB becomes the EA. The IWMB, as EA, inspects facilities for compliance with State minimum standards and/or solid waste facility permit (SWFP) terms and conditions. In the event that a facility owner/operator does not comply with the State minimum standards and/or terms and conditions of its SWFP, the IWMB will pursue appropriate enforcement action. For a variety of reasons, the IWMB acts as the enforcement agency in six jurisdictions: the City of Berkeley, the City of Stockton, the City of Paso Robles, the County of Santa Cruz, the County of San Luis Obispo, and the County of Stanislaus.

LEA Performance Evaluation: The IWMB LEA program includes the formation (designation), support and evaluation (audit) of the LEAs to improve their success in consistent enforcement of statutes, regulations, and solid waste facilities' permit terms and conditions statewide. LEA responsibilities include such duties as, making sure facilities are properly permitted, carrying out routine facility inspections, requiring prompt action to remedy violations of state minimum standards at facilities, as well as longer term issues such as requiring each facility to have a closure plan and post-closure financial assurance. To assess the LEAs' performance, the program includes a step-by-step approach and results range from finding that LEAs are fulfilling responsibilities to, corrective action, to withdrawal of the LEA's designation approval and de-certification. Each LEA must be evaluated once every three years. The fourth evaluation cycle ran from 2006-2010 and results are discussed in the Solid Waste Facility and LEA Enforcement Component Outcomes section below.

Solid Waste Facility and LEA Enforcement Goals

The Strategic Directives set a goal of compliance with applicable State standards and permit conditions at all permitted active solid waste facilities.

The IWMB adopted a Targeted Compliance Strategy (Strategy) in December 2007 to ensure compliance. The IWMB developed the Strategy to ensure compliance with applicable State standards and permit conditions at active solid waste facilities and tire facilities. This Strategy provides direction on how to best focus resources where there is a need to provide assistance and oversight to Local Enforcement Agencies (LEA) carrying out their duties and to effectively monitor the compliance of solid waste and tire facilities and operations to ensure they are operating effectively.

The Strategy is built upon the following principles:

1. Compliance first approach
2. Cooperation first approach
3. Consistent enforcement
4. Measuring compliance
5. Need for continuing education and training
6. Need for increased multi-media coordination when appropriate
7. Each LEA has an Enforcement Program Plan (EPP) that defines appropriate enforcement steps for non-complying facilities.

This Compliance Targeting Strategy focuses on situations where:

- The facility is chronically violating state minimum standards and the LEA has not put the facility under a Notice and Order or a Compliance Plan.
- State minimum standards are not being adequately assessed to protect the public health and safety, and the environment.
- Multiple enforcement orders or extensions of orders have been issued to a facility and little or no progress is being made.
- Inspections are not being conducted pursuant to the statutes and regulations.

Strategies include:

1. Reducing the number of facilities listed on the IWMB's [Inventory of Solid Waste Facilities Which Violate State Minimum Standards](#).
2. Provide inspection and enforcement training, assistance and oversight to LEAs to ensure that State programs are effectively implemented.
3. Increase the number of random and independent inspections.
4. LEA performance evaluation process to enhance solid waste enforcement.

In 2009 changes in the law (AB 2679, Ruskin, Chapter 500, Statutes of 2008) added additional solid waste facilities enforcement provisions including: establishment of a minor violation program; streamlined assessment of administrative civil penalties; direct IWMB enforcement upon request of an LEA; no automatic stay of an enforcement action when an operator requests a hearing; and establishment of criminal penalties. The IWMB prepared guidance, but no LEA used the new provisions.

IWMB utilizes statutory and regulatory standards to assess LEA performance and to ascertain that the LEA:

- Provides consistent enforcement of statute and regulations pertaining to the handling and disposal of solid waste;
- Implements its approved Enforcement Program Plan (EPP); and
- Remains in compliance with its certification requirements (i.e., staff adequacy, technical expertise, budget resources, training, and carrying out the processes in their EPP).

Consistent with Public Resources Code (PRC) 43214, performance standards for evaluating LEAs and reviewing each enforcement agency's implementation of the permit, inspection, and enforcement program are located in Title 14, California Code of Regulations (14 CCR), Division 7, Chapter 5, Article 2.2.

Pursuant to statute and regulations, evaluation staff finds that an LEA is not fulfilling its duties if the LEA has:

1. Failed to exercise due diligence in the inspection of solid waste facilities and disposal sites;
2. Intentionally misrepresented the results of inspections;
3. Failed to prepare, or cause to be prepared, permits, permit revisions, or closure and postclosure maintenance plans;
4. Approved permits, permit revisions, or closure and postclosure maintenance plans which are not consistent with Part 4 and Part 5 of the Public Resources Code;
5. Failed to take appropriate enforcement actions; and
6. Failed to comply with, or has taken actions that are inconsistent with, or unauthorized by statute or regulations.

It is important to note that these statutory criteria are limited. For example, the criteria do not address the quality of inspections conducted or quality of permits prepared by a LEA. However, finding #6 (above) can address quality issues to the extent that a LEA does not fulfill a requirement that is specified in either statute or regulation.

3) Solid Waste Facility and LEA Enforcement Component Metrics

Solid Waste Facility and LEA Enforcement Component Data Characteristics

Solid waste facility enforcement related data is collected from LEA and EA monthly/quarterly inspections at each permitted solid waste facility as required by law, LEA progress updates on implementing Enforcement Program Plans (EPP) and LEA evaluation corrective action plans, and LEA and EA progress updates on enforcement actions.

Solid Waste Facility and LEA Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Solid Waste Facility and LEA Enforcement Component Outputs

Between 2000 and 2009 the number of enforcement orders issued to active facilities has decreased by nearly half. LEA inspections have increased about nineteen (19) percent, EA inspections have increased forty-one (41) percent and IWMB pre-permit and 18-month oversight inspections have increased 40 percent.

In 2000:

- 10,765 inspections were conducted by LEAs
- 308 inspections by the IWMB's EA program
- 130 IWMB inspections (pre-permit and 18 month)
- 81 enforcement orders were issued

- 54 Notice and Orders were issued by LEAs
- 21 *Notices of Intent to List on the Inventory* were issued to facilities by the IWMB, and six (6) facilities did not comply and were listed on the *Inventory*.

In 2009:

- 13,165 inspections were conducted by LEAs
- 518 inspections by the IWMB's EA program
- 216 IWMB inspections (pre-permit and 18 month)
- 41 enforcement orders were issued
- 12 Notice and Orders were issued by LEAs/EAs
- 23 *Notices of Intent to List on the Inventory* were issued to facilities by the IWMB, and six (6) facilities did not comply and were listed on the *Inventory*

Solid Waste Facility and LEA Enforcement Component Outcomes

Significant violation non-compliance rates at solid waste management facilities have decreased since implementation of the IWMB/LEA Partnership, which began in 2000. For solid waste facilities, significant violations are being listed on the Inventory of Facilities that Violate State Minimum Standards and being on enforcement order. Six percent (28) of the 480 permitted active solid waste facilities and disposal sites had significant violations and were under enforcement action in 2009. In some cases a facility had multiple enforcement actions in 2009 (Notice of Intent to List on the Inventory, Inventory and one or more enforcement orders). However, about 3/4's of the facilities that received a Notice of Intent to List on the Inventory, came into compliance and did not move to a significant violation. In addition, the number of solid waste facilities with significant violations that were listed on the Inventory remained at six. The total number of enforcement actions from 2000-2009 is shown in Figure 8 and Table 1.

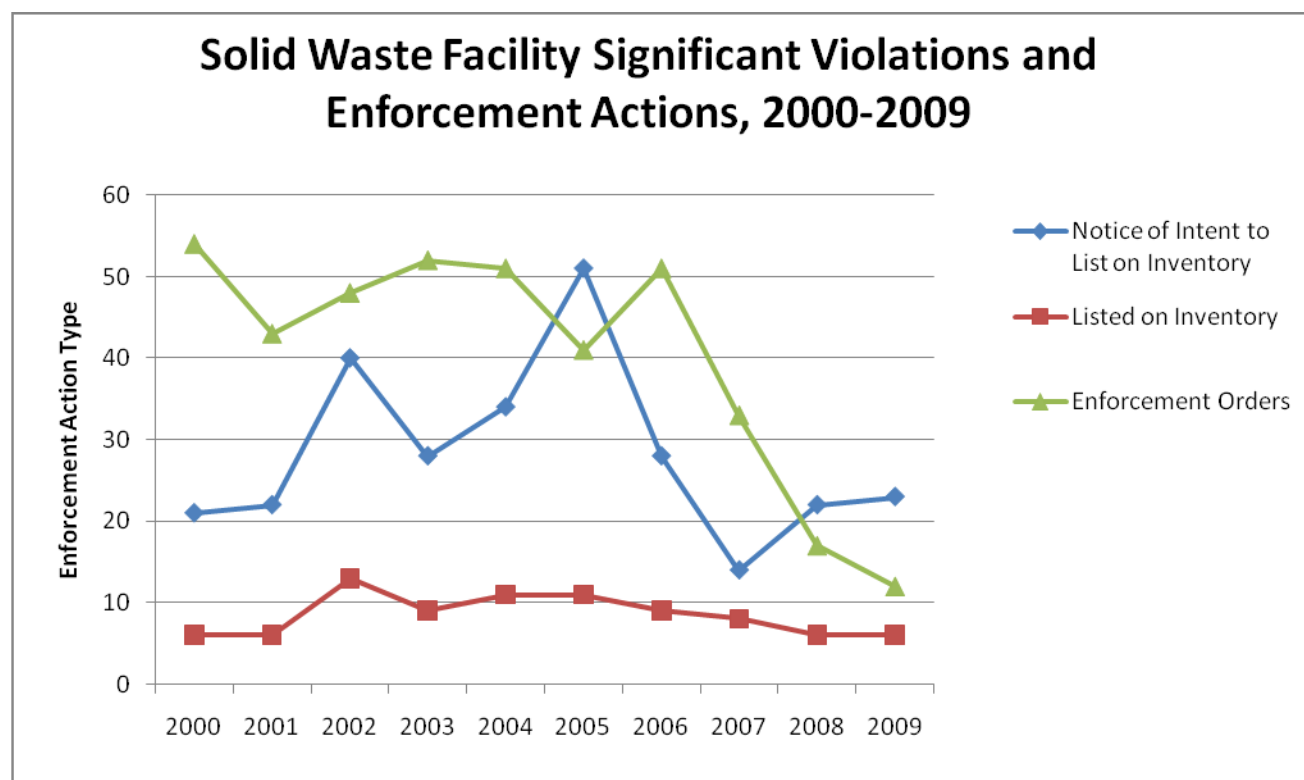


Figure 8. Solid Waste Facility Enforcement Actions, 2000 to 2009

| | Solid Waste Facility Enforcement Action Type | | |
|-------------|---|-----------------------------|----------------------------|
| Year | Notice of Intent to List on Inventory | Listed on Inventory* | Enforcement Orders* |
| 2000 | 21 | 6 | 54 |
| 2001 | 22 | 6 | 43 |
| 2002 | 40 | 13 | 48 |
| 2003 | 28 | 9 | 52 |
| 2004 | 34 | 11 | 51 |
| 2005 | 51 | 11 | 41 |
| 2006 | 28 | 9 | 51 |
| 2007 | 14 | 8 | 33 |
| 2008 | 22 | 6 | 17 |
| 2009 | 23 | 6 | 12 |

*** Significant Violation**

Table 1. Solid Waste Facility Enforcement Actions, 2000 to 2008

Every three years the IWMB evaluates solid waste management LEA performance. The evaluation focuses on whether LEAs met their EPP and performed as required by statute and regulation. The fourth evaluation cycle was for the years 2006-2009. However, due to a lack of staff resources, IWMB staff did not complete the evaluations until early 2010. 35 of 55 evaluated LEAs were found to be fulfilling all their responsibilities during the Fourth Evaluation Cycle. Of the 20 jurisdictions which did not fulfill all their responsibilities, nine were found to be fulfilling most responsibilities or had resolved outstanding issues prior to the end of the evaluation cycle, while eleven required an LEA evaluation corrective action plan to correct deficiencies; two of the eleven resolved outstanding issues before the evaluation report was finalized. Of the nine (9) requiring corrective action plans to be implemented after the evaluation, all but three have successfully corrected the issues outlined in the corrective action plans. The three LEAs still on corrective action plans were evaluated late in the cycle and are making progress towards complying with the corrective action plan.

This is a significant improvement from the Third and Second LEA Evaluation Cycles as shown in Table 2. Eight more LEAs were found to have “fulfilled duties” in the Fourth Cycle than Third Cycle and fourteen more than Second Cycle. LEAs which required corrective action plans were reduced from twenty-one in the Third Cycle to eleven LEAs in Fourth Cycle.

| LEA Evaluation Results | 2nd Evaluation Cycle | 3rd Evaluation Cycle | 4th Evaluation Cycle |
|--|--|--|--|
| # fulfilling their duties/responsibilities | 21 | 27 | 35 |
| # fulfilling most of their duties/responsibilities | 21 | 7 | 9 |
| # requiring a corrective action plan | 14 | 21 | 11 |

Table 2. LEA Evaluation Results Summary Chart

Solid Waste Facility and LEA Enforcement Limitations

An important component of achieving compliance at all permitted active solid waste facilities is working through LEAs and verifying that LEAs are performing their duties in accordance with the law. The IWMB is reviewing the municipal solid waste enforcement program to identify opportunities for additional progress in increasing compliance and enforcement. Specifically the IWMB is in the process of developing database triggers to identify issues early, and then providing assistance to help LEAs and operators achieve compliance with the ultimate goal of achieving 100 percent compliance. During 2009, the IWMB focused on analyzing current data reports which were developed several years ago and are in the process of finalizing its recommendations for improving the reports and developing more sophisticated data triggers such as: e-mail triggers to potential lack of enforcement or violations prior to them becoming significant violations. The next steps will be to work with the internal Information Management group. However, since staffing has been reduced by about 30%, this project may be delayed.

Local Government Diversion Enforcement Component

Local Government Diversion Enforcement Component Description

The California Integrated Waste Management Act (Chapter 1095, Statutes of 1989 [AB 939 Sher] as amended [IWMA]) made all California cities, counties, and IWMB-approved regional solid waste management agencies responsible for enacting plans and implementing programs to divert 50 percent of waste disposed starting in 2000. SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]) changed how diversion is measured from estimating an annual diversion rate to per capita disposal in pounds per day and requires IWMB to focus on diversion program implementation in its review of each local government's compliance. Recent changes in the law allow a local government and IWMB to obtain more timely and accurate information on reductions in tons disposed, focuses efforts on implementing diversion programs to reduce waste sent to disposal and makes compliance determinations easier.

The system relies on per capita disposal as an indicator that allows for local growth. As residents or employees increase, report-year disposal tons can increase and still be consistent with the 50 percent per capita disposal target. Through this system each local government's compliance will continue to be evaluated on a case-by-case basis. Local governments will not be compared to other local governments or the statewide average. Local governments will only be compared to their own 50 percent per capita disposal target.

When compliance evaluations occur in the future, CalRecycle will look at each local government's per capita disposal rate as an indicator of how well its programs are keeping solid waste disposal at or below each local government's unique 50 percent per capita disposal target. However, this number is just one factor and by itself does not determine compliance or when to take enforcement action. Compliance is based on the CalRecycle determining that a local government is continuing to implement its selected diversion programs and is making progress in meeting its target. The first two-year review will be in 2010 after local governments submit their 2009 annual reports and the first four-year review will be in 2012 after local governments submit their 2011 annual reports.

Once a local government adopts a waste diversion plan, it must implement the plan to the best of its ability (PRC Section 41850). To help the IWMB determine the status of diversion program implementation, the local government submits an annual report to IWMB. Every two or four years the IWMB conducts an independent review of the local government's progress toward implementing its diversion plan.

In 2009, there were 540 cities and counties in California that were required to plan and implement diversion programs to achieve the diversion requirements. The IWMA allows cities and counties to join regional agencies, to realize reduced costs for programs and reporting, as well as to improve accuracy of measurements by reducing complex boundaries. Because many cities and counties have joined regional agencies, in 2009 there were 414 local governments subject to these requirements.

To ensure consistency in its evaluation and treatment of local governments during a review cycle and any subsequent hearings, the IWMB adopted enforcement policies in February 1995, and updated the policies in August 2001. The policy is expected to be updated in June 2010 to reflect the changes in law effective in 2009. The policy is incorporated into statute by reference (PRC Section 41850).

If the implementation of a local government's waste diversion plan does not result in achieving its per capita disposal target, the IWMB may do one of the following:

1. Determine that the local government's program implementation efforts are sufficient to warrant "good-faith effort" status; or
2. Place the local government under a compliance order (PRC Section 41825).

When a local government fails to make a "good-faith effort" to implement diversion programs to achieve the per capita disposal target, IWMB holds a hearing to determine whether to place the local government on compliance. The compliance order issued by IWMB after such a hearing is accompanied by a plan for corrective action outlining specific steps and deadlines which will bring the local government into compliance with the IWMA. The focus of the corrective action plan is also on implementation of all reasonable and feasible diversion programs, though some existing corrective action plans have included work on improving measurement accuracy.

When a local government fails to implement the conditions of its compliance order, the IWMB conducts a penalty hearing to determine whether to exercise its authority under PRC Section 41850 to fine local governments up to \$10,000 per day.

Local Government Diversion Enforcement Goals

The Strategic Directives focus on minimizing waste and maximizing diversion of materials from landfills through the waste management hierarchy of waste prevention, recycling and composting, and safe disposal of waste. The Strategic Directives also focus on compliance with the requirements that local governments plan and implement diversion programs to achieve the diversion requirements. To accomplish these strategic directives the IWMB will:

- Provide rigorous oversight and review of all local government programs so that diversion programs are fully implemented, and local governments are meeting their per capita disposal targets. Continually increase the statewide annual diversion rate beyond 50 percent.
- Conduct the enforcement program so that noncompliant local governments implement diversion programs and come into compliance with diversion requirements.

Local Government Diversion Enforcement Component Metrics

Local Government Diversion Enforcement Component Data Characteristics

Local government diversion related data is collected from a number of sources. Waste disposed by all residents and businesses is collected at permitted solid waste facilities and reported to the IWMB in the Disposal Reporting System. This data is included in the IWMB's calculation of default per capita disposal target.

Local Government Diversion Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Local Government Diversion Enforcement Component Outputs

During 2009 a total of eleven (11) local governments were on a compliance order. The local governments include: Cerritos, Paramount, Daly City, Inglewood, Firebaugh, Ridgecrest, Compton, Santa Paula, Downey, Hawaiian Gardens, and the Los Angeles Integrated Waste Management Authority. The IWMB placed two (2) local governments on compliance during 2009; they include Clearlake and Greenfield.

During the course of the 2009, five (5) local governments: Cerritos, Paramount, Daly City, Inglewood and the Los Angeles Integrated Waste Management Authority met the terms of their compliance orders and were removed from compliance status.

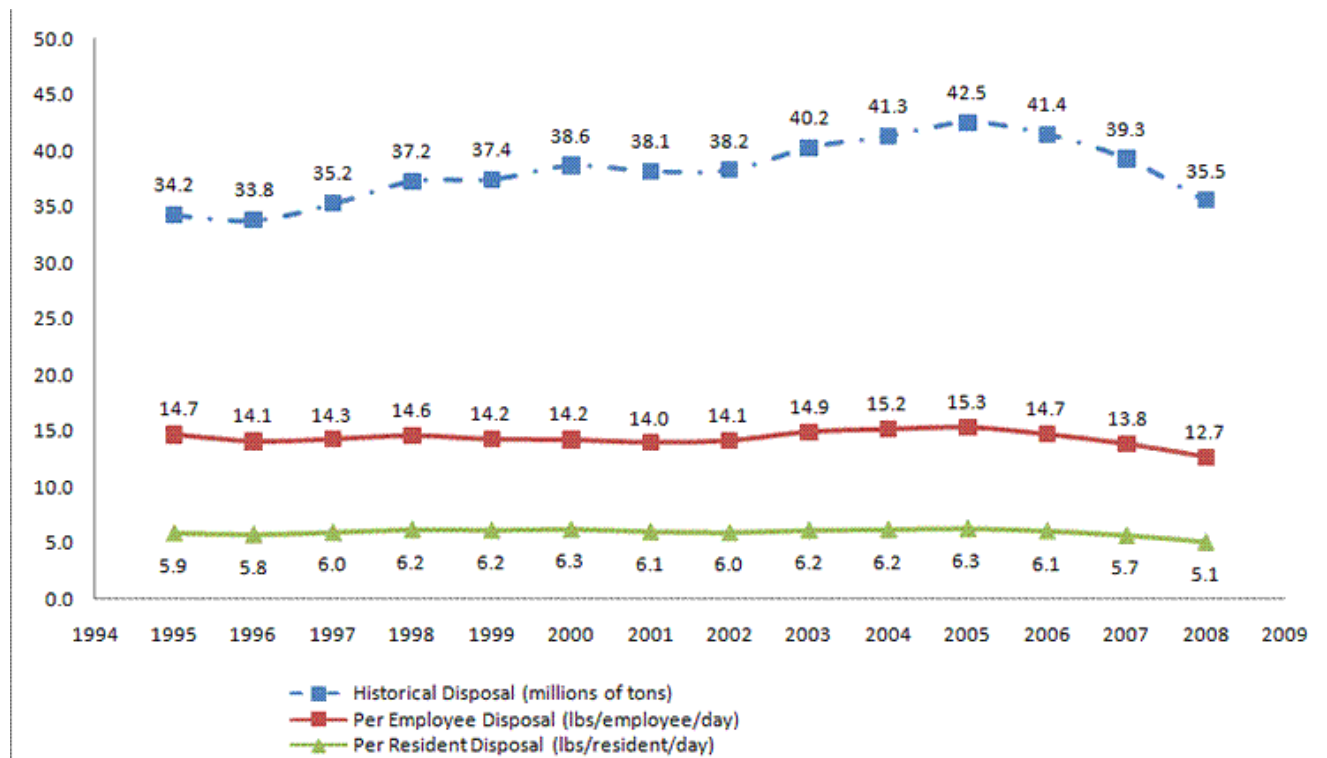
The IWMB imposed penalties on one (1) local government for failure to meet the requirements of their compliance order. The City of Ridgecrest was fined forty-seven thousand dollars (\$47,000), of which twenty-thousand dollars (\$20,000) was due and payable immediately and twenty-seven thousand dollars (\$27,000) was held in abeyance until January 4, 2010. The amount held in abeyance would be due if the City failed to implement all of its diversion programs by January 4, 2010.

Local Government Diversion Enforcement Component Outcomes

The IMWB provides assistance to local governments, as required by law, to help them achieve compliance with diversion requirements. The IWMB also places local governments on compliance orders if they have not met requirements, or made a good faith effort to meet the diversion requirements. This has resulted in increased compliance over time.

Since the IWMA went into effect in 1990, total disposal has held generally steady, even as the population of California increased. Statewide the per capita disposal rates have decreased from 5.9 pounds per day in 1995 to 5.1 pounds per day in 2008 (the latest year for which data is available). See Figure 9 for the statewide per capita disposal over time.

The IWMB's Strategic Directives include continually increasing the statewide annual diversion rate beyond 50 percent. The 2008 statewide diversion rate was 59 percent as shown in Figure 10.

California's Statewide Per Resident, Per Employee, and Total Disposal Since 1995**Figure 9. California's Statewide Per Resident, Per Employee, and Total Disposal Since 1995**

California's Estimated Statewide Diversion Rates Since 1995¹

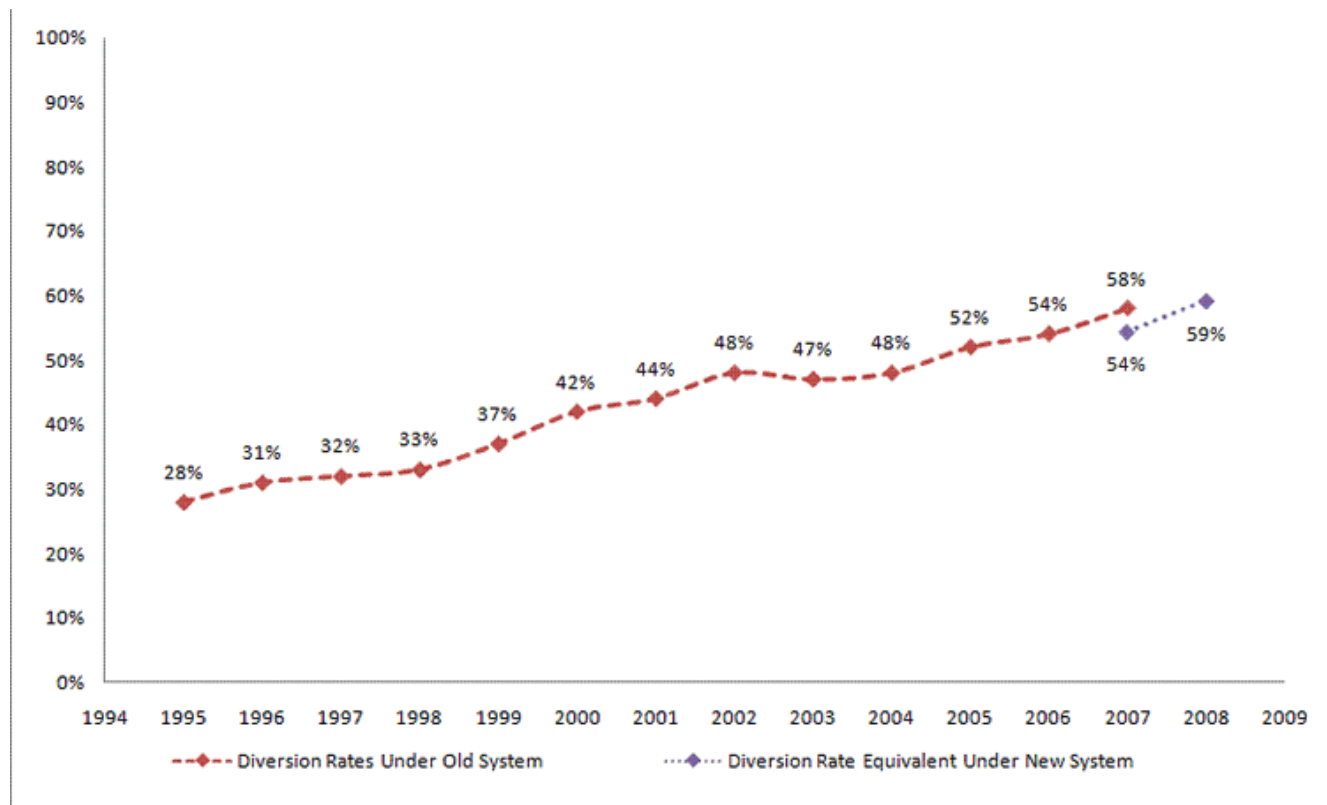


Figure 10. California's Estimated Statewide Diversion Rates Since 1995

¹ This graph shows historical statewide estimated diversion rates for California. 1995 through 2007 diversion rates are calculated using the [Adjustment Method](#) (old system). 2007 and later diversion rate equivalents are from the new [Per Capita Disposal and Goal Measurement system](#).

Environmental/Health Outcomes

The CalEPA Environmental Protection Indicators for California (EPIC), that were originally published in 2004, have looked at statewide diversion data on a per capita basis rather than for the state as a whole as described above in the outcomes section. Many of the issues with estimating diversion rates at the local government level are reduced when looking at statewide data. Since the law changed, the methodology for measuring achievement of diversion requirements has changed to per capita disposal, the EPIC indicator also needs to be changed and the reader should refer to Figure 9 above for statewide per capita disposal over time.

In the early 1990s, cities and counties found it was difficult and costly to obtain accurate information on quantities and types of wastes recycled and composted, and to calculate waste prevention. Waste diversion activities are decentralized and dispersed, as compared to disposal that occurs at a limited number of facilities. Changes in the law, effective January 1, 2009, will allow local governments and the IWMB to obtain more timely and accurate information on reductions in tons disposed, focus efforts on implementing diversion programs to reduce waste sent to disposal and make compliance determinations easier.

4) Rigid Plastic Packaging Containers (RPPC) Minimum Recycled Content Enforcement Component

RPPC Minimum Recycled Content Enforcement Component Description

The RPPC law was enacted as part of an effort to increase the use of recycled plastic and reduce the amount of plastic waste disposed in California landfills. The law regulates companies that produce or generate products that are held in RPPCs that are sold or offered for sale in California. The law is enforced by the IWMB through a compliance certification process for regulated companies.

California's RPPC law supports new and expanded infrastructures for collecting and recycling plastic resins in California and around the world. The law diverts plastics from disposal in California landfills by supporting demand for postconsumer material, which in turn encourages recyclers to divert more material that would otherwise go to landfills. Continued implementation and effective enforcement of the law is essential to follow through on the IWMB's commitment to protect the environment and is critical to maintaining demand for postconsumer resins.

The law applies to manufacturers/producers/generators of products sold or offered for sale in regulated RPPCs as defined by law. When a company's name, or any of its brand names or subsidiaries or affiliates, appears on the container label of a product that is sold or offered for sale into the State of California, either directly or indirectly (for example, through distributors, franchises, internet sales, etc.), then that company is subject to the requirements of the California RPPC law.

Several types of containers are exempt from the RPPC requirements. These include rigid plastic containers:

- used for shipping drugs, medical devices, cosmetics, food, medical food, or infant formula as defined by the Federal Food, Drug, and Cosmetic Act;
- used for shipping toxic or hazardous products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act; and
- used for shipping hazardous materials that are prohibited by federal law from being manufactured with "used material" (postconsumer resin) by federal packaging material specifications, or are subject to specified federal testing standards, or to which recommendations of the United Nations on the transport of dangerous goods are applicable.

California statute allows the IWMB to assess penalties of up to \$50,000 for any violation up to a maximum of \$100,000 annually. Violations include, but are not limited to, failure to submit all required forms, or submitting incomplete forms, or noncompliance with the RPPC law.

RPPC Minimum Recycled Content Enforcement Component Goals

The RPPC law supports California's recycling infrastructure and supports greater collection and reprocessing of plastic resins into containers produced. Compliance can be achieved in several ways:

- Some compliance options were designed to encourage source reduction (waste prevention), recycling, and reuse/refilling of RPPCs;
- The recycling compliance option promotes the use of more postconsumer resin in RPPCs, and reduces the amount of virgin resin used to manufacture RPPCs.

One hundred companies are selected from a pool of known companies that produce or generate products in RPPCs are required to certify they complied in a calendar year, and are subject to penalties if they fail to demonstrate compliance.

The RPPC program promotes extended producer responsibility by supporting infrastructure for collecting and recycling plastic resins and requiring recycled content in plastic packaging. The Strategic Directives set goals for additional producers to assume the responsibility for the safe stewardship of their materials in order to promote environmental sustainability.

RPPC Minimum Recycled Content Enforcement Component Metrics

RPPC Minimum Recycled Content Enforcement Component Data Characteristics

Companies selected to certify they complied in a particular calendar year are required to submit forms containing data required by statute and regulations.

RPPC Minimum Recycled Content Enforcement Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

RPPC Minimum Recycled Content Enforcement Component Outputs

During 2009, no specific enforcement actions were taken. This was due to a temporary suspension of the certification cycle while the program staff developed regulation revisions. It is anticipated that the 45 day comment period for the proposed regulation revisions will begin during late summer 2010.

RPPC Minimum Recycled Content Enforcement Component Limitations

The CIWMB conducted five compliance certification cycles for the following reporting periods: 1996; 1997-99 (combined into one certification); 2000; 2001 and 2005. Based on over 10 years experience in conducting compliance certifications and in taking enforcement actions, it became clear there were inconsistencies, inequities, complexities, and outdated provisions in the current regulations which are an impediment to the effective and efficient implementation of the law. Therefore, the IWMB decided to work on the adoption of revised regulations, and educate businesses about the requirements in the revised regulations, before undertaking another compliance certification cycle.

Stakeholders have raised many issues regarding the existing RPPC regulations. The IWMB directed staff to revise the RPPC regulations and implement an outreach and educational campaign before undertaking another compliance cycle and assessing penalties. Regulations revisions are needed to make them more clear and specific; to reorganize the regulations to improve ease of understanding; to eliminate inequities in

regard to what types of containers are regulated; to align the regulations with the intent of the law to support markets for PCM; and to align the regulations with the Board's strategic directive for extended producer responsibility.

Modifying the regulations to clarify that the owner of the brand name is the corporate entity responsible for generating products packaged in RPPCs for sale in California will have the effect of requiring manufacturers to take responsibility for the packaging it uses. This should have the effect of "greening" manufacturer's entire supply chain as they require their suppliers to provide them with compliant containers.

Modifying the definition of a rigid plastic packaging container to include containers that are almost identical to regulated containers, but that are not currently regulated by the existing regulations will level the playing field. This regulatory inconsistency creates an inequitable regulatory environment. For example, containers with metal handles are currently not regulated, even though the same container without a handle, or with a plastic handle, is regulated.

IWMB staff is working on finalizing the Office of Administrative Law regulation package and are scheduled to begin the 45-day comment period in late summer 2010.

5) Illegal Dumping Component

Illegal Dumping Component Description

Illegal dumping poses risks to the general public and the environment, degrades the quality of life in affected communities, and is costly to clean up. Illegal dumping is an intentional act that is typically done for economic gain. In contrast, littering is not done for economic gain and may or may not be an intentional act. Currently, no state agency is tasked with the coordination of issues arising from illegal dumping. In general, local entities take the lead in enforcement and cleanup for such sites.

IWMB initiated a coordinated effort to assess: 1) the statewide extent of the illegal dumping problem; 2) the amount of resources that local governments spend annually combating the problem; and 3) local government's needs to combat the problem. An Illegal Dumping Enforcement Task Force (IDETF) was formed in early 2006 and activities continued into 2009. The twenty-two members included local, state, federal and local government employees, legal associations, hazardous material management associations, private solid waste operators and associations, environmental non-profit associations, and private citizens.

In conjunction with the IDETF activities, California State Association of Counties (CSAC) and the League of California Cities provided staffing to conduct a 2008 follow-up to the original 2006 cost survey. While not yet finalized, the 2008 survey had a greater level of local government participation and indicated results consistent with the 2006 survey. The 2006 survey reported an annual cost of over \$34 million to local government for abatement. In addition, the Department of Transportation has an annual budget for litter and illegal dumping abatement and prevention of \$55 million, which means a combined minimum cost of \$89 million.

Illegal Dumping Component Metrics

Illegal Dumping Component Data Characteristics

Since no state agency has authority for illegal dumping, a variety of data is collected by local and state agencies depending on their needs and available resources.

Illegal Dumping Component Inputs

See description of enforcement program resources in the IWMB Enforcement Program Overview.

Illegal Dumping Component Outputs

Over the past few years, IWMB staff worked with local government representatives to develop a web-based [Illegal Dumping Resources Toolbox](#). The toolbox emphasizes the four core elements of an effective program to keep pace with illegal dumping; prevention, abatement, cleanup, and enforcement. The enforcement element articulates needed staff resources including illegal dumping enforcement officers; documentation tools and resources to support enforcement; and administrative and judicial approaches for case resolution. The toolbox was rolled out to code enforcement officials, local enforcement agencies, and local government decision makers in 2009.

IWMB continues to move aggressively under its Solid Waste Disposal and Codisposal Site Cleanup Program to quickly cleanup large illegal disposal sites that pose a significant threat to the surrounding communities where responsible parties are unable or unwilling to perform the necessary remediation. One of the more complex projects IWMB worked on in 2009 is a bi-national, multi-media effort in partnership with the California Department of Parks and Recreation to fund and install a trash boom system to improve the removal of trash, tires, and sediment during storm events and prevent impacts to the Tijuana River Estuary. Program staff successfully completed several other clean-up projects in 2009 and continues to work on new projects.

Illegal Dumping Component Limitations

Until the following are addressed, illegal dumping will continue to be an issue throughout California: (1) there is a critical need for state coordination, leadership, and assistance to local illegal dumping enforcement, abatement and prevention programs; (2) legislation is required to provide local and state government with the needed legislative authority and equipment to administer effective illegal dumping programs as described above and (3) additional funding sources are needed to support the increasing costs of illegal dumping. Staff resources for illegal dumping work were very limited in 2009 and are expected to be limited in the near future.

III. FUTURE DIRECTIONS

As a result of the 2007 reorganization to implement Governor Schwarzenegger's Enforcement Initiative, during 2009 CEED continued to streamline a number of existing compliance and enforcement practices to improve their effectiveness in meeting the IWMB's Strategic Directives, the Five-Year Tire Plan and the Compliance Targeting Strategy.

Since all enforcement duties were transferred to CalRecycle in 2010, CalRecycle's key enforcement objectives for 2010 include meeting strategic directives, streamlining processes as described under each component below, clarifying requirements through regulations revisions and evaluating the potential of new technology to improve enforcement in the future. These activities have been identified in this chapter and are summarized below.

Tire Enforcement Component

The Tire Enforcement Program will focus on efforts to:

- Meet the Strategic Directive goal:
 - Oversee enforcement activities so that all permitted active tire facilities meet state minimum standards, and permit terms and conditions, and focus increased enforcement efforts on facilities with repeated violations.

- Obtain regulatory approval for revised regulations to allow implementation of streamlined penalties for select facility violations without the requirement for an intervening Cleanup and Abatement order violation.
- Work with CalRecycle staff in assistance as well as enforcement roles to identify appropriate CalRecycle actions to address illegal export of tires to Mexico and increase recycling/reuse of waste tires in the California/Mexico border region when developing the next Five-Year Tire Plan (expected to be adopted in 2011).

Solid Waste Facility and LEA Enforcement Component

In the area of solid waste facility compliance and enforcement CalRecycle will focus on implementing Strategic Directives and the Compliance Targeting Strategy.

- Meet the Strategic Directives goals to:
 - Oversee enforcement of regulations so that all permitted active landfills and other solid waste facilities meet state minimum standards as well as permit terms and conditions; and focus increased enforcement efforts on landfills with repeated violations. Reduce the number of solid waste facilities on the noncompliance (“Inventory”) list.
- Focus on implementation of recent regulatory changes including enhanced landfill gas management requirements and new long-term landfill post-closure and corrective action financial assurance requirements.
- Focus on LEAs that have been on corrective work plans for two or more evaluation cycles. Provide targeted assistance, and where the assistance does not improve performance, initiate an early LEA evaluation. Outcomes range from placing the LEA on probation to CalRecycle taking over all LEA duties.
- Identify opportunities for additional progress in increasing compliance and enforcement.
 - Develop automated electronic inspection reports to obtain data more quickly and reduce potential data entry errors
 - Update information in databases and develop database triggers to identify issues early. Database triggers could include: chronic violations not handled at the local level; chronic permit violations other than state minimum standards covered by the Inventory process; lack of LEA inspections; and multiple enforcement orders that do not show progress.
 - Identify types of assistance and training needed to improve compliance with input from the LEAs.
 - Provide assistance to help LEAs and operators achieve compliance with the ultimate goal of achieving compliance at all facilities.
- Obtain authority to establish reimbursable positions when CalRecycle assumes EA duties.

Due to a lack of staff resources, CalRecycle will not be able to meet the strategic directive goal of: Increase by 2 percent the number of independent and random CEED inspections (audits) and field investigations conducted at solid waste facilities. This may be reconsidered if additional resources are available in the future.

Local Government Diversion Enforcement Component

In this area, the program will focus on efforts to:

- Meet the Strategic Directives goals:
 - Provide rigorous oversight and review of all local government programs so that diversion programs are fully implemented, and local governments are meeting their per capita disposal target.

- Conduct the enforcement program so that noncompliant local governments implement diversion programs and come into compliance with diversion requirements.
 - Continually increase the statewide annual diversion rate beyond 50 percent.
- Place local governments found not to be making a “good faith effort” to achieve the diversion requirements during the upcoming two-year review cycle on compliance orders. Compliance orders require a compliance implementation plan with additional diversion programs and an implementation schedule.
- Monitor local governments on compliance orders to determine whether they are meeting the schedule and terms of the compliance order. Determine whether each local government has met the terms of the compliance order. If not, conduct a hearing to consider penalties for failure to implement the compliance order.
- Conduct random audits of local governments to evaluate their continued implementation of diversion programs. If it is determined that compliance is not being met, the local government will be placed on a compliance order. Continue to implement changes in the measurement system by determining any needed modifications to existing enforcement processes.

RPPC and Minimum Recycled Content Enforcement Component

In this program area, staff will focus on efforts to:

- Conduct an appeal hearing if a company appeals the IWMB decision that they are out of compliance with minimum recycled content requirements in the 2005 certification cycle.
- Revise RPPC regulations to clarify requirements and level the playing field prior to undertaking the next compliance certification process.

Illegal Dumping Component

Staff will focus on efforts to:

- Continue to evaluate the results of installing a trash boom system to improve the removal of trash, tires, and sediment during storm events and prevent impacts to the Tijuana River Estuary and work with the bi-national effort in partnership with the California Department of Parks and Recreation.
- Continue to promote the illegal dumping resources toolbox through trainings and participation in local and regional illegal dumping task force meetings.
- Promote State sponsored legislation to enhance local and regional efforts to combat illegal dumping.

IV. APPENDICES

LIST OF ACRONYMS

| Acronym | Full Name |
|-------------|---|
| 14 CCR | Title 14, California Code of Regulations |
| 27 CCR | Title 27, California Code of Regulations |
| ARB | California Air Resources Board |
| BMP | Best management practice |
| Cal/EPA | California Environmental Protection Agency |
| CalTrans | California Department of Transportation |
| CEED | Compliance Evaluation and Enforcement Division |
| CHP | California Highway Patrol |
| CIA | Closed, Illegal, and Abandoned Disposal Sites |
| CPI | Consumer Price Index |
| CSAC | California State Association of Counties |
| DTSC | California Department of Toxic Substances Control |
| EA | Waste tire enforcement action |
| EA | Solid waste enforcement agency |
| EPA | U.S. Environmental Protection Agency |
| EPIC | California Environmental Protection Agency Environmental Protection Indicators for California |
| EPP | Enforcement Program Plan |
| IDETF | Illegal Dumping Enforcement Task Force |
| Inventory | Inventory of Solid Waste Facilities That Violate State Minimum Standards |
| IWMA | Integrated Waste Management Act |
| IWMB | Integrated Waste Management Board |
| LEA | Solid waste local enforcement agency |
| MSWLF | Municipal Solid Waste Landfill |
| NOV | Notice of Violation |
| PCM | Post-consumer material |
| PRC | Public Resources Code |
| RCRA | U.S. Resource Conservation and Recovery Act |
| RPPC | Rigid Plastic Packaging Container |
| SMS | State Minimum Standards at solid waste handling facilities |
| SWFP | Solid waste facility permit |
| SWRCB | California State Water Resources Control Board |
| TSDI | Taxable Sales Deflator Index |
| WCM Program | Waste Compliance and Mitigation Program |

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